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AO 91 (Rev. 11/11) Criminal Complaint

Agent:

Michael Everson

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## UNITED STATES DISTRICT COURT

for the

Eastern District of Michigan

United States of America

v.

Bernardino HERNANDEZ-CUENCA

Case No.

Case: 2:23-mj-30479

Assigned To : Unassigned

Assign. Date : 12/4/2023

CMP USA V HERNANDEZ-CUENCA (LH)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of November 30, 2023 in the county of Wayne in the  
Eastern District of Michigan, the defendant(s) violated:

*Code Section**Offense Description*

Title 8, United States Code, Section 1326(a)

Unlawful Re-entry after Removal from the United States


This criminal complaint is based on these facts:

On or about November 30, 2023, in the Eastern District of Michigan, Southern Division, Bernardino HERNANDEZ-CUENCA, an alien from Mexico, was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about June 9, 2020, at or near Hidalgo Texas and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; in violation of Title 8, United States Code, Section 1326 (a).

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence  
 and/or by reliable electronic means.

Date: December 4, 2023City and state: Detroit, MI

  
 Complainant's signature

Michael Everson, CBP Agent  
 Printed name and title

  
 Judge's signature

Anthony P. Patti, United States Magistrate Judge  
 Printed name and title

**AFFIDAVIT**

I, Michael Everson, declare the following under penalty of perjury:

1. I am a Border Patrol Agent with the United States Department of Homeland Security, United States Border Patrol. I have been employed in this capacity since December 2011. Currently, I am assigned to the Detroit Border Patrol Station. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers to include Border Patrol Agents and record checks of law enforcement databases. I have also reviewed material from the official Immigration file and system automated data relating to Bernardino HERNANDEZ-CUENCA, which reveals the following:
2. HERNANDEZ-CUENCA is a forty-five-year-old male, native and citizen of Mexico, who last entered the United States at or near an unknown place, on or about an unknown date without being admitted, inspected, or paroled by an Immigration Officer.
3. On or about April 3, 1999, HERNANDEZ-CUENCA was arrested by Border Patrol Agents at or near Tecate, California. He was granted a Voluntary Removal and was returned to Mexico on the same day.
4. On or about April 18, 2002, HERNANDEZ-CUENCA was arrested for engaging the services of another for act of prostitution. The charge was later dismissed in 36<sup>th</sup> District Court.
5. On or about May 2, 2002, HERNANDEZ-CUENCA was convicted under the name Bernardino CUENCA in the 36<sup>th</sup> District Court for Domestic Violence, in violation of MCL 750.812. He was sentenced to 1-year probation.
6. On or about August 27, 2003, HERNANDEZ-CUENCA under the name Hugo MIRANDA-PEREZ was convicted in the 40<sup>th</sup> District Court for Driving without a License.
7. On or about October 2, 2013, HERNANDEZ-CUENCA under the name of Hugo MIRANDA-PEREZ was convicted in the 34<sup>th</sup> District Court for Failing to Display a Valid Drivers License. He was fined \$325.
8. On or about May 16, 2020, HERNANDEZ-CUENCA under the name of Hugo MIRANDA-PEREZ, was arrested at or near Detroit, Michigan for Assault with

Deadly Weapon, Child Abuse 4<sup>th</sup> degree, Domestic Violence, and Malicious Destruction of Property. These charges were later dismissed in the 36<sup>th</sup> District Court due to his deportation.

9. On or about May 18, 2020, HERNANDEZ-CUENCA was arrested by Immigration and Customs Enforcement and was issued a Notice to Appear. HERNANDEZ-CUENCA was ordered removed by an Immigration Judge on June 2, 2020.
10. On or about June 9, 2020, HERNANDEZ-CUENCA was removed to Mexico through Hidalgo, Texas.
11. On or about November 29, 2023, HERNANDEZ-CUENCA was pulled over by Michigan State Police (MSP) at or near Livonia, Michigan. Border Patrol Agents arrived on scene following a request from MSP for assistance. HERNANDEZ-CUENCA stated to the officer that his name was Armando HERNANDEZ-CUENCA. He was cited for Operating Without a License and Furnishing a False/Forged Information to a Police Officer. He was also arrested for an open warrant in Detroit, and he was transported to the Detroit Police Department Detention Facility (DDC). Detroit Border Patrol Agents placed an immigration detainer for HERNANDEZ-CUENCA with DDC.
12. On or about November 30, 2023, Detroit Border Patrol Agents received a call from the DDC stating that HERNANDEZ-CUENCA was ready to be picked up on his immigration detainer. He was transported to the Detroit Border Patrol Station for processing. His prior order of removal was reinstated.
13. Bernardino HERNANDEZ-CUENCA's fingerprints and photograph were captured and entered into the Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS). The results revealed that HERNANDEZ-CUENCA is a citizen of Mexico with the foregoing immigration history who has been previously removed from the United States. The record checks did not provide any evidence that HERNANDEZ-CUENCA legally entered the United States or had been issued any document or status that would allow him to enter or remain the United States.
14. The aforementioned arrest and subsequent detention was an administrative, non-criminal action made pursuant to the authority found in sections 1357, 1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain any alien entering or attempting to enter the United States, or any alien present in the United States, who is reasonably believed to be in violation of

any law or regulation regulating the admission, exclusion, expulsion, or removal of aliens.

15. Review of the Alien File (A# xxx xxx 124) for Bernardino HERNANDEZ-CUENCA and queries in Department of Homeland Security databases confirm no record exists of HERNANDEZ-CUENCA obtaining the express permission from the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States following his removal on June 9, 2020.
16. Based on the above information, I believe there is probable cause to conclude that Bernardino HERNANDEZ-CUENCA, is an alien who was found in the United States after removal, without the express permission from the Attorney General of the United States or from the Secretary of the Department of Homeland Security to re-apply for admission into the United States in violation of Title 8, United States Code, Section 1326(a).



Michael Everson, Border Patrol Agent  
U.S. Department of Homeland Security

Sworn to before me and signed in my  
presence and/or by reliable electronic means.



Anthony P. Patti                      December 4, 2023  
United States Magistrate Judge